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Sub-Commission on the Promotion
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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII)

Joint written statement*/ submitted by the International Federation of Human Rights Leagues and the Lutheran World Federation, non-governmental organizations in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[29 June 2001]

*/ This written statement is issued, unedited, as received in English, from the submitting non-governmental organization(s).

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Discrimination on the basis of work and descent

Article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination defines 'racial discrimination' as "any distinction, exclusion, restriction or preference based on", *inter alia*, "descent ... which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life."

The Committee on the Elimination of Racial Discrimination has repeatedly affirmed the applicability of this limb of the definition of 'racial discrimination' to caste-based discrimination (in India, Nepal and Bangladesh) as well as to discrimination resulting from similar forms of discrimination resulting from social constructs based on work and descent (such as in the case of the Burakumin of Japan). The issue of caste-based discrimination or similar forms of discrimination has also been raised in the Committee's deliberations on a number of countries outside the Asian region, including Burkina Faso, Burundi, Cameroon, Mali, Mauritania and Mauritius.

The Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance presented a brief summary of the question of "untouchables in India" in his report to the fifty-fifth session of the Commission on Human Rights in 1999, and has expressed his belief that "specific attention should be given to the situation of the untouchables in India". He has repeatedly requested an invitation from the Indian Government to enable him to undertake a field mission for this purpose.

The African Regional Seminar of Experts on the Prevention of Ethnic and Racial Conflicts in Africa, held in Addis Ababa in October 2000 as part of the preparations for the World Conference Against Racism, called for "an in-depth study of the question of castes, in particular in Africa".

In its formal statement to the Asian Regional Preparatory Committee meeting for the World Conference Against Racism, held in Tehran in February 2001, the Government of Nepal acknowledged the persistence of caste-based discrimination, in declaring that "Our bitter experiences has (sic) shown that legal remedies by themselves cannot remove the subtle discrimination based on caste, ethnicity etc."

NGOs have frequently raised the issue of caste-based discrimination or similar forms of discrimination based on work and descent in India, Nepal, Sri Lanka, Japan and elsewhere in the Asian region as a serious human rights concern. Speaking before the Working Group on Minorities in May 2001, however, an NGO representative from Guinea described a situation in his country remarkably similar to that of the Dalits of south Asia:

> "Il existe des groupes humains ou des groupes socio-professionels qui de par leurs activités économiques ou culturelles subissent une pesanteur sociale si forte qu'ils ne peuvent prétendre à un développement libre de leur personnalité du fait des préjugés sociaux et de stéréotypes négatifs séculaires.... Victimes de stéréotypes négatifs, ils sont contraints de dissimuler leur véritable indentité pour prétendre à un mariage en dehors de leur groupe ou postuler à une responsabilité sociale. Ce qui constitue une menace pour l'activité économique, transmise de père en fils, dans ces milieux marginalisés et une perte considérable en valeur ajoutée et en richesse culturelle pour le pays."

Discrimination based on work and descent is a global phenomenon, not only because of the widespread, if under-recognized, existence of indigenous caste systems and similar social constructs in many different countries, but also due to the worldwide spread of the south Asian diaspora which has, to a greater or lesser extent, carried the caste system with it. Wherever they are found, casteism and similar social constructs are experienced by those at the base of the social pyramid in markedly similar ways - as an institutionalized and socially accepted form of discrimination based on one's descent and occupation, often involving concepts of purity and pollution, and which curtails or precludes the full development of

one's personality and talents. In its most extreme forms, this type of discrimination manifests itself in murder, rape and other forms of physical violence, but its most insidious and destructive expression is perhaps in the many subtle ways in which millions of people are daily marginalized by their own society because of their descent and occupation.

In its resolution 2000/4 adopted at its 52nd session, the Sub-Commission on the Promotion and Protection of Human Rights explicitly recognized the global dimensions of the problem of discrimination on the basis of work and descent, and declared that "discrimination on the basis of work and descent is a form of discrimination prohibited by international human rights law".

The working paper requested by the Sub-Commission in resolution 2000/4 will, we believe, be a major step towards a better understanding of the human rights implications of forms of discrimination based on work and descent. We hope that it can provide a basis for a comprehensive examination of all such implications - civil, cultural, economic, political and social. The enormity and complexity of the issue, affecting an estimated population of 250 million people in south Asia alone and in multiple aspects of their daily lives, requires a level of research and analysis that no working paper can provide. We call for the Sub-Commission to pursue a more detailed longer-term study of this issue.

Given the global nature of the problem, the size of the population affected by it, and its obvious relevance to the mandate of the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance (not least because of the treaty definition of 'racial discrimination' as applied by the Committee on the Elimination of Racial Discrimination), the issue of discrimination on the basis of work and descent not only warrants but demands attention at the World Conference. Regrettably, narrow political interests have so far militated against the inclusion of this critical issue in the World Conference's agenda. We hope that the Sub-Commission will, albeit at this eleventh hour, lend its authoritative support to the rising chorus of civil society voices calling for the international community to grasp the opportunity of the World Conference to break the conspiracy of silence against the uncounted victims of discrimination on the basis of work and descent.